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 SELECT PORTFOLIO SERVICING, INC.

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

ROY DANDRIDGE, an individual;
 DEBBIE DANDRIDGE, an
 individual,

Plaintiffs,

v.

SELECT PORTFOLIO
 SERVICING, INC.; AND DOES 1-
 50, INCLUSIVE,

Defendants.

Case No. EDCV 22-985-GW-SHKx

Assigned to: George H. Wu
 Magistrate: Shashi H. Kewalramani

**ORDER DISMISSING PLAINTIFFS'
 THIRD AMENDED COMPLAINT
 WITH PREJUDICE**

Complaint filed: May 12, 2022
 Trial date: None set

On June 8, 2023, the Court granted Defendant SELECT PORTFOLIO SERVICING, INC.' Motion to Dismiss Plaintiffs ROY DANDRIDGE's and DEBBIE DANDRIDGE's Third Amended Complaint, and each cause of action contained therein, without leave to amend.

Specifically, the Court found:

I. Background

Plaintiffs Roy Dandridge and Debbie Dandridge ("Plaintiffs") originally filed this action in state court against Defendant Select Portfolio Servicing, Inc. ("SPS"), raising four causes of action for: (1) violation of Cal. Civ. Code § 2923.6; (2)

1 violation of Cal. Civ. Code § 2923.7; (3) violation of the Real Estate Settlement
 2 Procedures Act, 12 U.S.C. § 2605, *et seq.* (“RESPA”); and (4) violation of Cal. Bus.
 3 & Prof. Code § 17200, *et seq.* *See* Docket No. 1-2. The lawsuit was removed to
 4 federal court. *See* Docket No. 1.

5 On March 2, 2023, this Court granted SPS’s motion to dismiss Plaintiffs’
 6 Second Amended Complaint (“SAC”) with leave to amend. *See* Docket No. 54.
 7 Plaintiffs filed a Third Amended Complaint (“TAC”), the current operative pleading,
 8 on March 27, 2023. *See* Docket No. 58. The TAC has five causes of action for: (1)
 9 breach of contract; (2) breach of the covenant of good faith and fair dealing; (3)
 10 violation of California Civil Code § 2924c; (4) violation of RESPA; and (5) violation
 11 of Business & Professions Code § 17200, *et seq.* *See id.*

12 Before the Court is SPS’s motion to dismiss the TAC (“Motion” or “Mot.”),
 13 filed on April 10, 2023. *See* Docket No. 59. Plaintiffs served an opposition (“Opp.”)
 14 on May 4, 2023. *See* Docket No. 64. SPS then filed a reply brief (“Reply”). *See*
 15 Docket No. 65.

16 Because the Court has extensively discussed the factual background of this
 17 matter in its previous orders, it will not repeat itself here. Thus, the Court incorporates
 18 the background facts as previously summarized. *See* March 1, 2023 Tentative Ruling
 19 (“Prior MTD Order”), Docket No. 53 at 1-5.

20 **II. Legal Standard**

21 Under Rule 12(b)(6), a defendant may move to dismiss for failure to state a
 22 claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). A complaint may
 23 be dismissed for failure to state a claim for one of two reasons: (1) lack of a
 24 cognizable legal theory; or (2) insufficient facts under a cognizable legal theory. *Bell*
 25 *Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007); *see also Mendiondo v. Centinela*
 26 *Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008).

27 “To survive a motion to dismiss, a complaint must contain sufficient factual
 28 matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’”

1 *Ashcroft v. Iqbal*, 556 Case 5:22-cv-00985-GW-SHK Document 70 Filed 06/08/23
 2 Page 2 of 10 Page ID #:933 2 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at
 3 570). The court must construe the complaint in the light most favorable to the
 4 plaintiff, accept all allegations of material fact as true, and draw all reasonable
 5 inferences from well-pleaded factual allegations. *Gompper v. VISX, Inc.*, 298 F.3d
 6 893, 896 (9th Cir. 2002). The court is not required to accept as true legal conclusions
 7 couched as factual allegations. *See Iqbal*, 556 U.S. at 678. “A claim has facial
 8 plausibility when the plaintiff pleads factual content that allows the court to draw the
 9 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.*

10 In deciding a Rule 12(b)(6) motion, a court “may generally consider only
 11 allegations contained in the pleadings, exhibits attached to the complaint, and matters
 12 properly subject to judicial notice.” *Swartz v. KPMG LLP*, 476 F.3d 756, 763 (9th
 13 Cir. 2007); *see also Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006) (indicating
 14 that a court may consider a document “on which the complaint ‘necessarily relies’ if:
 15 (1) the complaint refers to the document; (2) the document is central to the plaintiff’s
 16 claim; and (3) no party questions the authenticity of the copy attached to the 12(b)(6)
 17 motion”).

18 If a court dismisses certain claims, “[l]eave to amend should be granted unless
 19 the district court ‘determines that the pleading could not possibly be cured by the
 20 allegation of other facts.’” *Knappenberger v. City of Phoenix*, 566 F.3d 936, 942 (9th
 21 Cir. 2009) (quoting *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc)).

22 **III. Discussion¹**

23 SPS moves to dismiss all five of Plaintiffs’ causes of action for failure to state
 24 a claim. *See generally* Mot. The Court begins the discussion by noting that all the
 25 claims raised in the TAC have been previously raised and dismissed, albeit without
 26

27 ¹ SPS filed a separate Request for Judicial Notice of 14 documents to be considered in the Court’s
 28 Order on its Motion. *See* Request for Judicial Notice (“RJN”), Docket No. 60. The Court previously
 took judicial notice of all exhibits to the RJN, *see* Docket No. 40 at 5, and finds it appropriate to do
 so again here.

1 prejudice, by this Court. The Court instructed Plaintiffs that if they sought to bring
 2 these claims again, they must plead the causes of action with sufficient particularity
 3 and further cure any noted defects. For reasons further discussed below, Plaintiffs
 4 have failed to do so.

5 1. First Cause of Action – Breach of Contract

6 In its order on the last motion to dismiss, the Court found Plaintiffs’ breach of
 7 contract claim based on the misapplication of the 2015 payments was time-barred.
 8 Prior MTD Order at 12.

9 In the TAC, Plaintiffs have not offered any new allegations that would affect
 10 the analysis of the applicable statute of limitations. Though Plaintiffs reference the
 11 discovery rule and equitable tolling in their amended complaint, *see* TAC ¶¶ 81-89,
 12 they allege no specific facts tending to show that they could not have previously
 13 discovered the alleged misapplication of payments in order to bring a timely claim.
 14 The allegations in Plaintiffs’ TAC make clear that Plaintiffs knew SunTrust was not
 15 applying their post-petition payments properly as early as July 30, 2015, when
 16 SunTrust sent Plaintiffs a refund check, and then in November 2015, when SunTrust
 17 recorded a default notice on the Moreno Valley Property. *See* TAC ¶¶ 18, 20. This
 18 was sufficient to put Plaintiffs on notice of their potential breach of contract claim
 19 due to misapplication of payments.

20 Plaintiffs now claim equitable tolling tolls the statute of limitations here
 21 because “Plaintiffs were unable to obtain the necessary information to decide []
 22 whether the injury was due to the wrongdoing of any of the Defendants because
 23 Plaintiffs successfully defended SunTrust’s claim of the alleged 2015 default in the
 24 Bankruptcy Court.” *Opp.* at 13. “To receive equitable tolling, a [plaintiff] bears the
 25 burden of showing ‘(1) that he has been pursuing his rights diligently, and (2) that
 26 some extraordinary circumstance stood in his way.’” *Waldron–Ramsey v. Pacholke*,
 27 556 F.3d 1008, 1011 (9th Cir. 2009). “[T]he threshold necessary to trigger equitable
 28 tolling is very high, lest the exceptions swallow the rule.” *Id.*

1 But the factual allegations of Plaintiffs' TAC do not show Plaintiffs pursued
 2 their rights diligently or made any attempt to investigate or discover the basis of their
 3 claims earlier. While the TAC states that SunTrust "disappeared" and that SPS was
 4 "often non-responsive to [Plaintiffs'] inquiries," *see* TAC ¶¶ 27, 30, the TAC also
 5 states that SunTrust "return[ed] previously applied post-petition payments," meaning
 6 the payments were not actually applied to Plaintiffs' account and remained
 7 outstanding, *see id.* ¶ 22. Because the payments were returned, Plaintiffs knew, or at
 8 least should have known, that SunTrust and/or SPS failed to apply payments to their
 9 account at the end of 2015. As the TAC currently stands, it is devoid of details
 10 regarding Plaintiffs' "inability to have made earlier discovery despite reasonable
 11 diligence." *Chubb Custom Ins. Co. v. Space Sys./Loral, Inc.*, 710 F.3d 946, 975 (9th
 12 Cir. 2013). Instead, Plaintiffs' allegations support the conclusion that they did not
 13 exercise reasonable diligence because Plaintiffs: (1) knew that their previously
 14 applied post-petition payments were returned, *see* TAC ¶ 22, (2) knew that their loan
 15 would not be brought current until they made all post-petition payments, *see* RJN,
 16 Ex. 9, and (3) Case 5:22-cv-00985-GW-SHK Document 70 Filed 06/08/23 Page 4 of
 17 10 Page ID #:935 4 knew that a mortgage remained on their Moreno Valley
 18 Property.²

19 Nor do Plaintiffs identify the "extraordinary circumstances that stood in [their]
 20 way." Plaintiffs' allegations that SunTrust and/or SPS kept changing positions and
 21 failed to communicate are not extraordinary circumstances that prevented Plaintiffs,
 22 acting with diligence, from finding out about the basis of their claim within the
 23 limitations period. Even if this conduct were true, the TAC lacks any explanation of
 24 how this conduct actually prevented Plaintiffs from pursuing their rights within the
 25 four year statute of limitations. Instead, Plaintiffs chose to stop making payments,
 26

27 ² While Plaintiffs argue that they exercised "reasonable care" "defending their position that they
 28 made all of the 2015 post-petition payments," Opp. at 13, they were aware in 2015 that the
 payments were not properly applied to their account as they received numerous refund checks,
see TAC ¶ 18. Thus, in 2015, Plaintiffs were, or should have been, on notice of their claim.

1 even though they knew, or at least should have known, that a mortgage remained on
 2 the Moreno Valley Property and that they remained in default on their loan.
 3 Therefore, the Court would dismiss Plaintiffs’ breach of contract claim based on the
 4 misapplication of the 2015 payments – now without leave to amend – as barred by
 5 the applicable statute of limitations.

6 Plaintiffs also allege a second breach – that they “did not receive written
 7 notice” of a change in loan servicer, as required by the deed of trust, when SPS began
 8 servicing their loan. TAC ¶ 91. SPS contends that it did not breach Section 20 of the
 9 deed of trust as it sent Plaintiffs a letter informing them of a servicing change, even
 10 though Plaintiffs allegedly did not receive it. Mot. at 14.³ SPS argues this is sufficient
 11 as Section 20 requires that “Borrower will be given written notice,” not that it is
 12 actually received. *Id.* Regardless, the Court would agree with SPS that the TAC fails
 13 to sufficiently allege damages from this purported breach. “Causation of damages in
 14 contract cases requires that the damage be proximately caused by the defendant’s
 15 breach.” *Troyk v. Farmers Grp., Inc.*, 171 Cal. App. 4th 1305, 1354 (2009) (citations
 16 omitted). Other than making general allegations that SPS’s alleged failure to provide
 17 notice injured Plaintiffs, the TAC does not describe how the purported failure to do
 18 so injured Plaintiffs. Plaintiffs argue that “their arrears and late fees continued to
 19 increase when Plaintiffs had no idea who was servicing their loan.” Opp. at 14-15.
 20 However, when the change in loan servicer occurred in 2018, Plaintiffs were already
 21 in default as they had stopped making payments for three years. As such, the “arrears
 22 and late fees” Plaintiffs complain of had already started to accrue prior to the change
 23 in loan servicer. In other words, Plaintiffs do not adequately allege injury resulting
 24 from the purported lack of written notice regarding the change in loan servicer.

25 In sum, the Court would dismiss Plaintiffs’ breach of contract claim. The Court
 26 previously granted Plaintiffs leave to amend this claim but will not do so again. The

27
 28 ³ The TAC acknowledges that a letter dated July 27, 2018 was sent to Plaintiffs noting the servicing
 change. TAC ¶ 29

1 Court dismisses the claim with prejudice.

2 2. Second Cause of Action – Breach of Implied Covenant of Good Faith
 3 and Fair Dealing

4 SPS argues that Plaintiffs’ second cause of action for breach of the implied
 5 covenant of good faith and fair dealing is also time-barred. Mot. at 15-16. The statute
 6 of limitations for breach of the implied covenant of good faith and fair dealing is four
 7 years. Cal. Code Civ. Proc. § 337(a). Plaintiffs base their claim on actions (or
 8 inaction) that allegedly took place in 2015 (*i.e.* the misapplication of payments). For
 9 the same reasons previously described above, the Court would conclude that this
 10 claim is time-barred to the extent it is based on misapplication of the 2015 payments.⁴

11 In addition, Plaintiffs base their breach of implied covenant claim on the theory
 12 that SPS failed to communicate with them and send them periodic statements. TAC
 13 ¶ 101. The Court previously allowed Plaintiffs an additional opportunity to plead
 14 “specific allegations concerning SPS’s failure to communicate.” Prior MTD Order at
 15 14. But Plaintiffs’ allegations still fall short. Plaintiffs recycle the same conclusory
 16 allegations in the SAC that SPS “was often non-responsive to their inquiries.”
 17 Compare TAC ¶ 30, with SAC ¶ 30. Such an allegation lacks “facial plausibility,”
 18 because there is insufficient “factual content that allows the court to draw a
 19 reasonable inference” that SPS breached the implied covenant by failing to
 20 communicate. *See Twombly*, 550 U.S. at 570. Furthermore, the TAC concedes that
 21 Plaintiffs had “more than 40 documented contacts” with SPS. TAC ¶ 46. In their
 22 opposition, Plaintiffs argue that “the quantity of communication [does] not
 23 presuppose the quality of communication.” Opp. at 15. However, Plaintiffs fail to

24 ⁴ Moreover, the Court would find that this claim is duplicative of Plaintiffs’ breach of contract
 25 claim, which is also premised on the same allegations that SPS failed to apply payments it
 26 received from Plaintiffs. Therefore, Plaintiffs’ breach of implied covenant claim based on this
 27 theory is “simply duplicative [of their breach of contract cause of action], and thus may be
 28 disregarded.” *Careau & Co. v. Sec. Pac. Bus. Credit, Inc.*, 222 Cal. App. 3d 1371, 1392 (1990);
see also Diaz v. Fed. Express Corp., 373 F. Supp. 2d 1034, 1066 (C.D. Cal. 2005) (dismissing
 plaintiff’s breach of covenant claim because it was duplicative of his breach of contract claim);
Integrated Storage Consulting Servs., Inc. v. NetApp, Inc., No. 5:12-cv-06209-EJD, 2013 WL
 3974537, at *7 (N.D. Cal. July 31, 2013) (same).

1 cite to any authority holding that a purported dissatisfaction with the “quality” of
2 communications amounts to a breach, especially where Plaintiffs concede numerous
3 communications/contacts with SPS.

4 Additionally, Plaintiffs argue that SPS kept changing its “stance” in 2015
5 regarding Plaintiffs’ post-petition arrears. *Id.* at 15-16. Specifically, Plaintiffs point
6 to actions that SPS allegedly took in 2015. *Id.* at 16. For example, Plaintiffs argue
7 that “Defendant took a stance that Plaintiffs owed them post-petition arrears in April
8 2015” and then in “June 2015, Defendant took a stance that Plaintiffs were
9 overpaying them and sent Plaintiffs back refund checks.” *Id.* Because Plaintiffs are
10 arguing that SPS “has shown a lack of communication . . . through Defendant’s
11 constantly conflicting status of Plaintiff[s]’ loan balance” and point to actions that
12 allegedly took place in 2015, this claim also appears to fall outside the four-year
13 statute of limitations period, for the reasons discussed above. Regardless, the Court
14 permitted Plaintiffs one more opportunity to add specific allegations regarding SPS’s
15 failure to communicate and they failed to do so. For these reasons, the Court would
16 dismiss the claim without leave to amend.

17 3. Third Cause of Action – Violation of Civil Code § 2924c

18 The Court previously dismissed Plaintiffs’ cause of action for violation of
19 California Civil Code § 2924c because they failed to plead any facts that they
20 attempted to reinstate the loan. *See* Prior MTD Order at 16. Plaintiffs have failed to
21 cure this defect in the TAC.

22 Courts routinely dismiss claims for violation of section 2924c where plaintiffs
23 fail to allege that they tendered an offer of reinstatement. *Carson v. Bank of Am. NA*,
24 611 F. App’x 379, 381 (9th Cir. 2015) (upholding dismissal of plaintiff’s claim
25 because they “failed to plead facts demonstrating that they unconditionally and
26 unambiguously offered to pay, or paid, the full reinstatement amount as to either
27 property during the Section 2924 reinstatement period”). For example, in *Fitzgerald*
28 *v. Bosco Credit, LLC*, No. 3:16-cv-01473-MEJ, 2017 WL 3602482 (N.D. Cal. Aug.

21, 2017), the plaintiff alleged that defendant provided inaccurate demands for reinstatement; however, had he been provided the correct reinstatement demand, he could have, and would have tendered the amount owed to reinstate the loan. *Id.* at *10. Because the plaintiff “allege[d] no facts that he sought to correct the reinstatement demand, that [p]laintiff actually attempted to make a payment, or that [d]efendants refused, or refused to respond to, his offer to tender payment,” the court could not find that plaintiff stated a reinstatement claim. *Id.* at *11.

Similarly, in *Miller v. California Reconveyance Co.*, No. 3:10-cv-00421-IEG- (CABx), 2010 WL 2889103 (S.D. Cal. July 22, 2010), the plaintiff alleged that the Notice of Default misstated the amount necessary to cure the default in violation of California Civil Code § 2924c. Case 5:22-cv-00985-GW-SHK Document 70 Filed 06/08/23 Page 7 of 10 Page ID #:938 7 *Id.* at *10. However, the court held that it need not “accept as true [p]laintiffs’ conclusory allegations” that “they would have cured the default had the Notice of Default listed the correct redemption amount.” *Id.*

Just like in the SAC, Plaintiffs continue to allege in a conclusory manner that they would have, or at least could have, reinstated the loan had they been informed of the correct amount necessary to cure the default. *See* TAC ¶ 115. And just like the plaintiffs in *Fitzgerald*, Plaintiffs have not alleged any facts that they “sought to correct the reinstatement demand, that [they] actually attempted to make a payment, or that [SPS] refused, or refused to respond to, [their] offer to tender payment.” 2017 WL 2602482, at *11. Although this Court permitted Plaintiffs leave to amend “to allege facts showing that they attempted to reinstate the loan,” *see* Prior MTD Order at 16, Plaintiffs have failed to do so. Instead, in their opposition, Plaintiffs argue that they “sufficiently plead a violation because Plaintiffs sought to correct the reinstatement quote multiple times in 2018 and 2019” and point to paragraphs 29 and 30 in the TAC. Opp. at 17. However, these paragraphs describe the change in loan servicer and SPS’s purported lack of communication with Plaintiffs. *See* TAC ¶¶ 29, 30. In short, the TAC does not adequately allege that Plaintiffs sought to correct the

1 reinstatement demand or attempted to cure the default by making required monthly
 2 payments. *Selznick v. Wells Fargo Bank, N.A.*, No. 2:15-cv-00812-MWF-(MANx),
 3 2015 WL 12697874, at *6 (C.D. Cal. Apr. 10, 2015) (“Plaintiff does not allege a
 4 violation of section 2924c because she does not allege that she sufficiently tendered
 5 the amount necessary to cure her arrears.”); *see also Orcilla v. Big Sur, Inc.*, 244 Cal.
 6 App. 4th 982, 1001 (2016) (where plaintiffs did not allege they attempted to cure the
 7 default by making required monthly payments, the California Court of Appeal
 8 “conclude[d] they do not adequately allege violations of section 2924c”).

9 For at least these reasons, Plaintiffs’ allegations still fall short. Since Plaintiffs
 10 already had an opportunity to fix these allegations on prior opportunities to amend,
 11 the Court would dismiss this claim without further leave to amend.

12 4. Fourth Cause of Action – Violation of RESPA

13 The Court previously dismissed Plaintiffs’ RESPA claim because they did not
 14 adequately allege actual, pecuniary damages stemming from SPS’s purported failure
 15 to respond to Plaintiffs’ June 16, 2021 QWR. *See* Prior MTD Order at 18-19.

16 The TAC now alleges that Plaintiffs suffered actual damages in the form of
 17 “incurring Case 5:22-cv-00985-GW-SHK Document 70 Filed 06/08/23 Page 8 of 10
 18 Page ID #:939 8 interest and fees from the time Plaintiffs sent their QWR on June
 19 16, 2021 until Defendant’s untimely reply on July 23, 2021.” TAC ¶ 131. Plaintiffs
 20 argue that they have “sufficiently demonstrated recoverable damages under RESPA”
 21 because “they did specifically narrow down the time period of when they sustained
 22 the damages to provide specificity of the actual damages alleged.” Opp. at 17-18.

23 While Plaintiffs have circumscribed the time period of purported damages,
 24 they still fail to plead that any such damages were the “direct result of [SPS’s] failure
 25 to comply.” *Lal v. Am. Home Servicing, Inc.*, 680 F. Supp. 2d 1218, 1223 (E.D. Cal.
 26 2010) (citing 12 U.S.C. § 2605(f)(1)(A)). “A claim of a RESPA violation cannot
 27 survive a motion to dismiss when the plaintiff does not plead facts showing how the
 28 plaintiff suffered actual harm due to defendants’ failure to respond to a qualified

written response.” *Fullmer v. JPMorgan Chase Bank, N.A.*, No. 2:09-cv-01037-JFM, 2010 WL 95206, at *6 (E.D. Cal. Jan. 6, 2010); *see also Singh v. Wash. Mut. Bank*, No. 3:09-cv-02771-MMC, 2009 WL 2588885, at *5 (N.D. Cal. Aug. 19, 2009) (dismissing RESPA claim where plaintiffs “failed to allege any facts in support of their conclusory allegation that ‘[a]s a result’ of defendants’ failure to respond, defendants ‘are liable for actual damages, costs, and attorney fees’”). Accordingly, a “plaintiff’s failure to allege a pecuniary loss attributable to a servicer’s failure to respond to QWRs has therefore been found to be fatal to the claim.” *Robinson v. Bank of Am., N.A.*, No. 3:21-cv-00110-AJB-(DEBx), 2022 WL 837073, at *7 (S.D. Cal. Mar. 21, 2022).

Here, the TAC’s allegations indicate that Plaintiffs sent their QWR after they had already defaulted on their loan. A Notice of Default on the Moreno Valley Property was recorded on December 22, 2020 and Plaintiffs did not send the QWR until June 16, 2021. TAC ¶¶ 33, 37. Given the timing of these events, the TAC fails to allege facts plausibly showing that any claimed damages for fees and interest incurred as a result of their default were the consequence of any alleged RESPA violation. Plaintiffs’ vague claim that they suffered harm because they were unable to “access[] critical account information and information regarding the loss mitigation options” between June 16, 2021 and July 23, 2021, is insufficient to demonstrate that Plaintiffs suffered actual damages as a result of SPS’s failure to timely respond to the QWR. Further, while Plaintiffs could recover statutory damages under RESPA if they plead some pattern or practice of noncompliance with the statute, *see* 12 U.S.C. § 2605(f)(1)(B), the TAC here still lacks any allegations that SPS has engaged in a pattern or practice of violating RESPA. *See generally* TAC. Case 5:22-cv-00985-GW-SHK Document 70 Filed 06/08/23 Page 9 of 10 Page ID #:940 9.

Accordingly, Plaintiffs have still failed to allege actual damages, which is fatal to their RESPA claim. The Court previously allowed Plaintiffs an additional

1 opportunity to plead, with specificity, “the exact damages that flowed from SPS’s
 2 purported failure to respond to Plaintiffs’ June 16, 2021 QWR.” Prior MTD Order at
 3 19. Plaintiffs have not heeded these directions. Therefore, the Court would dismiss
 4 the RESPA claim with prejudice.

5 5. Fifth Cause of Action – Violation of California’s Unfair Competition
 6 Law


7 Plaintiffs’ remaining cause of action alleges violations of California’s Unfair
 8 Competition Law (“UCL”), which prohibits “any unlawful, unfair, or fraudulent
 9 business act or practice.” *See generally* Cal. Bus. & Prof. Code § 17200, et seq. Since
 10 Plaintiffs’ UCL claim is derivative of the other causes of action, it also necessarily
 11 fails. *See* Prior MTD Order at 20-21; *see also* Opp. at 19 (conceding that their UCL
 12 claim is tethered to SPS’s purported violations of Cal. Civ. Code §2924c, breach of
 13 contract, and RESPA). Because Plaintiffs already had an opportunity to amend the
 14 deficiencies in these allegations, the Court also dismisses this claim without further
 15 leave to amend.

16 **IV. Conclusion**

17 Based on the foregoing discussion, the Court would **GRANT** the Motion with
 18 prejudice.

19 Accordingly, the Court orders the entire action dismissed WITH PREJUDICE.

20
 21 Dated: June 15, 2023


 HON. GEORGE H. WU,
 U.S. DISTRICT JUDGE